IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 162 of 1998

Between:

1 Ch.Rajamallu S/o.Ch.Rajaiah
Open Caste, Goleti
R/o.Bellampalli Adilabad Dist
2 P.Laxman S/o.Rajaiah
R.K.New Tech
R/o.Bellampalli Adilabad Dist
3 D.Rajaiah S/o.Guruvaiah
Area Hospital
R/o.Bellampalli Adilabad Dist
4 T.David S/o.Samuel
Exploration Dept
R/o.Bellampalli Adilabad Dist
5 Sk.Mohiuddin S/o.Sk.Ahmed
MVK-I, Incline
R/o.Bellampalli Adilabad Dist
6 M.Rajesham S/o.Posham
Workshop
R/o.Bellampalli Adilabad Dist
7 V.Madhusudhan Reddy S/o.Venkat Reddy
MVK-I
R/o.Bellampalli Adilabad Dist

..... PETITIONERS

AND

1 The Chairman & Managing Director,

Singareni Collieries Co. Ltd.,

Mehar Manzil, Khairathabad
Hyderabad

2 The Director (Personnel),

Singareni Collieries Co.Ltd.,
Kothagudem, Khammam Dist
3 The General Manager (Personnel),

Singareni Collieries Co.Ltd.,
Kothagudem, Khammam Dist
4 The General Manager,

Singareni Collieries Co.Ltd.,
Bellampally, Adilabad Dist

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, particularly one in the nature of writ of mandamus, declaring that the action of the respondent management in not considering the cases of the petitioners for appointment to the post of Clerk Grade-II/Grade-II, having empanelled the petitioners to the said posts, after successful examination as illegal, unjust, contrary to law, arbitrary, discriminatory and violative of Art.14,16 and 21 of the Constitution of India and grant all consequential benefits, and pass such other order.

Counsel for the Petitioners: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: MR.K.SRINIVASA MURTHY

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in not considering the case of the petitioners for appointment to the post of Clerk Grade-II/Grade-III having empanelled them to the said posts as arbitrary and illegal.

It is the case of the petitioners that they are working in the respondent Company in various capacities. They have appeared for the examination as inservice candidates for being recruited to the post of Clerk Grade-II held in the month of February 1992 and passed the examination. They were also empanelled for the purpose of considering their cases for appointment to the said post. It is also their case that by the time of their empanelment itself they were shouldering higher responsibilities and were working as clerk Grade-II. It is stated that the persons who were empanelled along with the petitioners and shouldering higher responsibilities were all allowed to continue in the post of Clerk Grade-II but the petitioners were reverted back to their substantive posts in the month of September,1992. Earlier to this, they have filed W.P.Nos.46 and 3255 of 1992 before this Court. The said writ petitions were dismissed on 18.8.1992 observing that the respondent management has agreed that such of the employees who have appeared in the test and passed and are empanelled for appointment to the post of clerk Grade-II will be absorbed in the existing or in the future vacancies. Since the said course was not adopted, the petitioners filed a contempt case, which was dismissed in view of the observations already made in the writ petitions.

The present writ petition is filed complaining that in spite of the directions of this Court in the earlier writ petitions, the respondents are not considering their cases for appointment to the post of Clerk Grade-II and on the other hand they were reverted back to their substantive post and the other persons who passed the test in 1992 and were empanelled along with them were being appointed in the post of clerk-Grade-II.

A detailed counter affidavit has been filed on behalf of the respondents *inter alia* stating that after the disposal of the earlier writ petitions and contempt case, there have been no vacancies and as such for want of vacancies, the case of the petitioners as well as the other persons like petitioners could not be considered for appointment to the post of Clerk Grade-II in the respondent company and in fact they were reverted to their substantive posts in the month of September 1992. However, the unions have been making repeated representations for absorbing those petitioners who approached the Court and other similarly situated persons and therefore the management entered into a fresh settlement with all major unions on

31.7.1997. As per the settlement dated 31.7.1997, an employee should have worked as clerk continuously for not less than three years as on 3.10.1996 for being appointed as Clerk Grade-II. Except petitioners 2 and 3 herein, all others have not satisfied the terms and conditions of the settlement and as such, the question of appointing them to the post of Clerk Grade-II does not arise. The settlement is entered into under Section 12(3) of the Industrial Disputes Act and as such the same is binding on all the workmen of the respondent company including the petitioners.

I have given my earnest consideration to the respective submissions made by both the learned counsel. It is an admitted fact that the petitioners have passed the departmental test conducted for recruitment to the post of Clerk Grade-II in 1992 and they were empanelled for being appointed to the said post. However their mere empanelment does not confer any right on the petitioners for being appointed. In fact, after the earlier writ petitions and the contempt case are closed, some of the candidates who were empanelled along with the petitioners were appointed against the post of Clerk Grade-II. The petitioners could not be accommodated only due to the non-availablity of the vacancies. However, due to the repeated representations of the unions concerned, a settlement was entered into on 31.7.1997 and as per the said settlement, petitioners 2 and 3 became eligible for being appointed as Clerk Grade-II and as such their cases were considered. Since the other petitioners were not qualified according to the settlement dated 31.7.1996, they were not entitled for being considered for appointment to the post of clerk Grade-II.

I am of the considered opinion that the respondents have not committed any error in rejecting the case of the petitioners for appointment to the post of clerk Grade-II.

Insofar as petitioners 2 and 3 are concerned, the writ petition has become infructuous since their cases were already considered and they were appointed against the vacancies available.

For the aforementioned reasons, I find no merit in the writ petition and the same shall accordingly stand dismissed as against the other petitioners also. No order as to costs.

13..06..2005

msv.

To

1 The Chairman & Managing Director,

Singareni Collieries Co. Ltd.,

Mehar Manzil, Khairathabad
Hyderabad

2 The Director (Personnel),

Singareni Collieries Co.Ltd.,
Kothagudem, Khammam Dist

3 The General Manager (Personnel),

Singareni Collieries Co.Ltd.,
Kothagudem, Khammam Dist

4 The General Manager,

Singareni Collieries Co. Ltd.,
Bellampally, Adilabad Dist

5 2 CD copies